UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,076	04/18/2001	David D. Hadden	1004-001	8830

27820	7590	04/21/2004

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

EXAMINER
COLON, CATHERINE M

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	09/837,076	HADDEN ET AL.
	Examiner	Art Unit
	C. Michelle Colon	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 February 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *15*.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

February 16, 2004 has been entered.

Response to Arguments

2.   Applicant's arguments have been fully considered, but found unpersuasive. In

the Remarks, Applicant argues that Nashner does not disclose any of the steps of claim

1.

      In response to the argument, Examiner respectfully disagrees. Walking through

claim 1, Nashner teaches the first limitation in the following ways: quantifying a first

actual performance metric (col. 4, lines 52-55; The system records at least one

performance metric of an individual prior to the training program (i.e., event

occurrence).) for a defined performance of an individual carrying out a task (col. 4, lines

55-58; The system defines expected performance in terms of quality and quantity of

executed tasks.) before an event occurrence bearing on an actual skill level for a

particular skill of the individual (col. 4, lines 58-61; The system monitors progress

towards performance goals, meaning that the training (i.e., event occurrence) affects

the skill of the individual in such a way as to improve the performance of the individual

carrying out the task. Since the system monitors training effectiveness, the training

must bear on the actual skill level of an individual.), wherein the skill of the individual

may or may not bear on the defined performance for the individual carrying out the task

(col. 4, lines 58-61; As discussed in the previous limitation, in the case of Nasher, the

skill of the individual does bear on the defined performance for the individual carrying

out the task.);

Nasher teaches the second limitation in the following ways: quantifying a second

actual performance metric for the defined performance of the individual carrying out the

task after the event occurrence (col. 4, lines 24-30; The system measures multiple

performance metrics of an individual before and after training. The system takes

performance metrics prior to and after training in order to determine training

effectiveness and to monitor compliance with program goals. Thus, a determination of

training effectiveness cannot be made without a comparison between a performance

metric of an individual prior to training and a performance metric of an individual after

training.); and

Nasher teaches the third limitation in the following ways: determining a result of

the event occurrence on an ability of the individual to carry out the task based on the

first and second actual performance metrics (col. 4, lines 24-30; The system compares

first and second performance metrics of an individual to determine a result of the

training on the ability of the individual to perform (quantity and quality) certain tasks.).

Thus, Examiner respectfully submits that Nashner does disclose all of the

elements of claim 1. Applicant's arguments have been fully considered, but found

unpersuasive. Accordingly, claims 1-30 are rejected.

Information Disclosure Statement

3.   The examiner has reviewed the patents supplied in the Information Disclosure

Statement (IDS) provided on December 22, 2003.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

5.   Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

(1) whether the invention is within the technological arts; and

(2) whether the invention produces a useful, concrete, and tangible result.

As per the first prong of the test, for a claimed invention to be statutory, the

claimed invention must be within the technological arts. Mere ideas in the abstract (i.e.,

abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or

advance the technological arts fail to promote the "progress of science and the useful

arts" (i.e., the physical sciences as opposed to social sciences) and therefore are found

to be non-statutory subject matter. For a process claim to be satisfactory, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the steps of method claims 1-10 recite quantifying first and second performance metrics of an individual before and after an event and determining a result of the event on an ability of the individual to carry out a task based on the first and second performance metrics; however, the steps do not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in person or by use of a pencil and paper and without the need of a computer or other technology.

As per the second prong of the test, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention quantifies first and second performance metrics of an individual before and after an event (i.e., concrete) and determines a result of the event on an ability of the individual to carry out a task based on the first and second performance metrics (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-10 are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 112

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

7.   Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

The claims read, "quantifying a first actual performance metric for a defined

performance of an individual carrying out a task before an event occurrence *bearing on*

an actual skill level for a particular skill of the individual, wherein *the skill of the*

individual may or may not bear on the defined performance for the individual carrying

out the task." [Emphasis added]

It is unclear the degree and the type of influence the event occurrence "bears" on

an actual skill level. For example, it is unclear whether the event occurrence enhances

or worsens, if at all, the actual skill level. Thus, the use of the term, "bear," makes the

relationship between the event occurrence and the actual skill level vague and

indefinite.

It is also unclear how the wherein clause, "wherein the skill of the individual may

or may not bear on the defined performance for the individual carrying out the task,"

further defines or limits the invention as it appears that the clause is merely saying that

something may or may not have some type of affect on something else. Thus, the

wherein clause make the relationship between the skill of the individual and the defined

performance appear either nonexistent or irrelevant.

Claims 1, 11 and 21 are further vague and indefinite for failing to clarify how a

result of the event occurrence is determined. The limitation merely recites that the

result is "based on" first and second performance metrics, without explanation as to

what information about the first and second performance metrics is used to determine

the result.

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9.   Claims 1-30 are rejected under 35 U.S.C. 102(e) and 102(a) as being anticipated

by Nashner (U.S. 6,190,287).

As per claim 1, Nashner discloses a method comprising:

a) quantifying a first actual performance metric for a defined performance of an

individual carrying out a task before an event occurrence bearing on an actual skill level

for a particular skill of the individual, wherein the skill of the individual may or may not

bear on the defined performance for the individual carrying out the task (col. 4, lines 48-

55; Figure 1; The system records at least one performance metric of an individual prior

to the training program (i.e., event occurrence). The system defines expected

performance in terms of quality and quantity of executed tasks. The system monitors

progress towards performance goals, meaning that the training (i.e., event occurrence)

affects the skill of the individual in such a way as to improve the performance of the

individual carrying out the task. Since the system monitors training effectiveness, the

training must bear on the actual skill level of an individual.);

b) quantifying a second actual performance metric for the defined performance of

the individual carrying out the task after the event occurrence (col. 4, lines 58-61; col. 5,

lines 11-15; Figure 1; The system measures multiple performance metrics of an

individual before and after training. The system takes performance metrics prior to and

after training in order to determine training effectiveness and to monitor compliance with

program goals. Thus, a determination of training effectiveness cannot be made without

a comparison between a performance metric of an individual prior to training and a

performance metric of an individual after training.);

and

c) determining a result of the event occurrence on an ability of the individual to

carry out the task based on the first and second actual performance metrics (col. 4,

lines 58-61; col. 5, lines 15-19 and lines 41-44; Figure 1; The system compares first and

second performance metrics of an individual to determine a result of the training on the

ability of the individual to perform (quantity and quality) certain tasks.).

As per claim 2, Nashner discloses the method of claim 1 further comprising

analyzing a relationship between the first and second actual performance metrics and

the actual skill level of the individual before and after the event occurrence wherein the determining step is based on the relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence (col. 5, lines 51-67; Table 1; The system takes performance metrics prior to and after training in order to determine training effectiveness and to monitor compliance with program goals. Thus, a determination of training effectiveness cannot be made without a comparison between a performance metric of an individual prior to training and a performance metric of an individual after training.).

As per claim 3, Nashner discloses the method of claim 1 further comprising the following steps prior to quantifying the first actual performance metric:

c) defining a role associated with a required skill having a required skill level and the defined performance (col. 4, lines 46-63; col. 6, line 63-col. 7, line 1; The system defines a role for an individual that includes expected performance in terms of quality and quantity of executed tasks.); and

d) associating the individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 4, lines 46-63; col. 7, lines 1-11; The invention as disclosed by Nashner compares the individual being evaluated with a "norm." Furthermore, by having a reference population possessing the "norm," the invention is associating individuals with certain skills required for certain roles and is further quantifying such characteristics.).

As per claim 4, Nashner discloses the method of claim 3 further comprising:

a) analyzing a difference between the required skill level for the role and the actual skill level of the individual (col. 7, lines 2-6; The system performs an initial evaluation of the individual's deficit from the "norm," or required skill level.);

b) determining if training is necessary to raise the actual skill level to the required skill level (col. 7, lines 6-8).

As per claim 5, Nashner discloses the method of claim 3 wherein the defining step further comprises associating a desired performance metric for the defined performance associated with the role and further comprising associating the individual having an actual performance metric correlating with the desired performance metric of the role to the role (col. 7, lines 2-6; Nashner discloses evaluating the individual's performance capabilities relative to the performance goals based on the "norm.").

As per claim 6, Nashner discloses the method of claim 1 further comprising:

d) comparing the actual skill level of the individual before and after the event occurrence (col. 4, lines 46-63; col. 7, lines 9-10; The system measures current skill levels and then monitors performance to determine a change in the skill levels.); and

e) correlating any difference between the actual skill level of the individual before and after the event occurrence with the ability of the individual to carry out the task (col. 7, lines 11-12; Table 2).

As per claim 7, Nashner discloses the method of claim 1 further comprising:

d) comparing the actual skill level of the individual before and after the event occurrence with the first and second actual performance metrics (col. 7, lines 2-11); and

e) determining a result of changes in the actual skill level of the individual before

and after the event occurrence on the ability of the individual to carry out the task (col.

7, line 27-col. 8, line 11).

As per claim 8, Nashner discloses the method of claim 1 wherein the event

occurrence is a training event bearing on the actual skill level of the individual and

further comprising:

d) quantifying a first actual performance metric for the defined performance of a

second individual carrying out the task before the training event (col. 6, line 63-col. 7,

line 1; col. 8, lines 62-67; The invention as disclosed by Nashner compares the

individual being evaluated with a reference population "norm." In doing so, the invention

is associating a group of individuals with certain skills required for certain roles and is

further quantifying such characteristics.);

e) quantifying a second actual performance metric for the defined performance of

the second individual carrying out the task after the training event, wherein the second

individual is not subjected to the training event (col. 6, line 63-col. 7, line 1; col. 8, lines

62-67; The invention as disclosed by Nashner compares the individual being evaluated

with a reference population "norm." In doing so, the invention is associating a group of

individuals with certain skills required for certain roles and is further quantifying such

characteristics. Furthermore, the group of individuals are not subjected to the training.);

and

f) comparing the first and second actual performance metrics of the second

individual with the first and second actual performance metrics of the individual to

determine effectiveness of the training event on the actual skill level (col. 4, lines 21-30

and 46-63; col. 7, lines 2-11; The system uses comparisons between first and second

performance metrics to monitor training effectiveness.).

As per claim 9, Nashner discloses the method of claim 1 further comprising:

g) identifying an increase between the first and second actual performance

metrics of the individual and the second individual (col. 7, lines 37-41; Table 2; The

system measures training effectiveness, where training is considered effective if there is

an increase/improvement between the first and second performance metrics and

training is considered ineffective if there is either no increase/improvement or even a

decrease between the first and second performance metrics.);

and

h) indicating an influence other than the training event causing the increase

between the first and second actual performance metrics of the individual and the

second individual (col. 6, lines 63-67; col. 7, line 10-col. 8, line 5; Tables 1 and 2; The

system also evaluates an individuals' motivation in determining a difference between

first and second performance metrics.).

As per claim 10, Nashner discloses a method comprising:

a) defining a role associated with a required skill having a required skill level and

requiring a defined performance for a task (col. 6, line 63-col. 7, line 1; col. 8, lines 27-

28);

b) associating an individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 8, lines 22-27);

c) quantifying a first actual performance metric for the defined performance of the individual carrying out the task before training bearing on the actual skill level for a particular skill of the individual, wherein the skill of the individual may or may not bear on the defined performance for the individual carrying out the task (col. 7, lines 2-6);

d) quantifying a second actual performance metric for the defined performance of the individual carrying out the task after the training (col. 7, lines 9-11; col. 8, lines 22-32);

e) analyzing a relationship between the first and second actual performance metrics before and after the training (col. 7, lines 11-12; col. 8, lines 56-59); and

f) determining a result of the training on the actual performance metric associated with the individual carrying out the task (col. 8, lines 53-64).

As per claim 11, Nashner discloses a computer readable medium comprising software for instructing a computer to:

a) quantify a first actual performance metric for a defined performance of an individual carrying out a task before an even occurrence bearing on an actual skill level for a particular skill of the individual, wherein the skill of the individual may or may not bear on the defined performance of the individual carrying out the task (col. 4, lines 48-55; Figures 1 and 2);

b) quantify a second actual performance metric for the defined performance of

the individual carrying out the task after the event occurrence (col. 4, lines 58-61; col. 5,

lines 11-15; Figures 1 and 2);

and

c) determine a result of the event occurrence on an ability of the individual to

carry out the defined performance based on the first and second actual performance

metrics (col. 4, lines 58-61; col. 5, lines 15-19 and lines 41-44; Figures 1 and 2).

As per claim 12, Nashner discloses the computer readable medium of claim 11

further comprising instructions to analyze a relationship between the first and second

actual performance metrics and the actual skill level of the individual before and after

the event occurrence and determine the result based at least partially on the

relationship between the first and second actual performance metrics and the actual

skill level of the individual before and after the event occurrence (col. 5, lines 51-67;

Table 1).

As per claim 13, Nashner discloses the computer readable medium of claim 11

further comprising the following instructions prior to instructing the computer to quantify

the first actual performance metric:

a) define a role associated with a required skill having a required skill level and

the defined performance (col. 4, lines 46-63; col. 6, line 63-col. 7, line 1); and

b) associate the individual having a possessed skill correlating with the required

skill of the role and an actual skill level quantifying the possessed skill (col. 4, lines 46-

63; col. 5, lines 6-27; col. 7, lines 1-11; The invention as disclosed by Nashner

compares the individual being evaluated with a "norm." Furthermore, by having a

reference population possessing the "norm," the invention is associating individuals with

certain skills required for certain roles and is further quantifying such characteristics.

As per claim 14, Nashner discloses the computer readable medium of claim 13

further comprising instructions to:

c) analyze a difference between the required skill level for the role and the actual

skill level of the individual (col. 7, lines 2-6);

d) determine if training is necessary to raise the actual skill level to the required

skill level (col. 7, lines 6-8).

As per claim 15, Nashner discloses the computer readable medium of claim 13

further comprising instructions to:

e) further define the role by associating a desired performance metric for the

defined performance associated with the role (col. 8, lines 62-67; Table 2); and

f) associate the individual having an actual performance metric correlating with

the desired performance metric of the role to the role (col. 7, lines 2-6; Table 2; Nashner

discloses evaluating the individual's performance capabilities relative to the

performance goals based on the reference population "norm.")

As per claim 16, Nashner discloses the computer readable medium of claim 11

further comprising instructions to:

d) compare the actual skill level of the individual before and after the event

occurrence (col. 7, lines 9-10); and

e) correlate any difference between the actual skill level of the individual before

and after the event occurrence with the ability of the individual to carry out the defined

performance (col. 7, lines 11 -12; Table 2).

As per claim 17, Nashner discloses the computer readable medium of claim 11

further comprising instructions to:

d) compare the actual skill level of the individual before and after the event

occurrence with the first and second actual performance metrics (col. 7, lines 2-11); and

e) determine a result of changes in the actual skill level of the individual before

and after the event occurrence on the ability of the individual to carry out the defined

performance (col. 7, line 27-col. 8, line 11).

As per claim 18, Nashner discloses the computer readable medium of claim 11

wherein the event occurrence is a training event bearing on the actual skill level of the

individual and further comprising instructions to:

d) quantify a first actual performance metric for the defined performance of a

second individual carrying out the task before the training event (col. 6, line 63-col. 7,

line 1; col. 8, lines 62-67; The invention as disclosed by Nashner compares the

individual being evaluated with a reference population "norm." In doing so, the invention

is associating a group of individuals with certain skills required for certain roles and is

further quantifying such characteristics.);

e) quantify a second actual performance metric for the defined performance of

the second individual carrying out the task after the training event, wherein the second

individual is not subjected to the training event (col. 6, line 63-col. 7, line 1; col. 8, lines

62-67; The invention as disclosed by Nashner compares the individual being evaluated with a reference population "norm." In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such characteristics. Furthermore, the group of individuals are not subjected to the training.); and

f) compare the first and second actual performance metrics of the second individual with the first and second actual performance metrics of the individual to determine effectiveness of the training event on the actual skill level (col. 7, lines 2-11).

As per claim 19, Nashner discloses the computer readable medium of claim 11 further comprising instructions to:

d) identify an increase between the first and second actual performance metrics of the individual and the second individual (col. 7, lines 42-48; Table 2);

and

e) indicate an influence other than the training event causing the increase between the first and second actual performance metrics of the individual and the second individual (col. 6, lines 63-67; Tables 1 and 2).

As per claim 20, Nashner discloses a computer readable medium comprising software for instructing a computer to:

a) define a role associated with a required skill having a required skill level and requiring a defined performance for a task (col. 6, line 63-col. 7, line 1; col. 8, lines 27-28; Figures 1 and 2);

b) associate an individual having a possessed skill correlating with the required

skill of the role and an actual skill level quantifying the possessed skill (col. 8, lines 22-

27; Figures 1 and 2);

c) quantify a first actual performance metric for the defined performance of the

individual carrying out the task before training bearing on the actual skill level for a

particular skill of the individual, wherein the skill of the individual may or may not bear

on the defined performance for the individual carrying out the task (col. 7, lines 2-6;

Figures 1 and 2);

d) quantify a second actual performance metric for the defined performance of

the individual carrying out the task after the training (col. 7, lines 9-11; col. 8, lines 22-

32; Figures 1 and 2);

e) analyze a relationship between the first and second actual performance

metrics before and after the training (col. 7, lines 11-12; col. 8, lines 56-59; Figures 1

and 2); and

f) determine a result of the training on the actual performance metric associated

with the individual carrying out the task (col. 8, lines 53-64; Figures 1 and 2).

As per claim 21, Nashner discloses a system comprising:

a) a user interface (Figures 2 and 3); and

b) a central processing unit associated with the user interface and adapted to:

i. quantify a first actual performance metric for a defined performance of

an individual carrying out a task before an event occurrence bearing on an actual skill

level for a particular skill of the individual, wherein the skill of the individual may or may

not bear on the defined performance for the individual carrying out the task (col. 4, lines 48-55; Figures 1 and 2);

        ii. quantify a second actual performance metric for a defined performance of the individual carrying out the task after the event occurrence (col. 4, lines 58-61; col. 5, lines 11-15; Figures 1 and 2); and

        iii. determine a result of the event occurrence on an ability of the individual to carry out the task based one the first and second actual performance metrics (col. 4, lines 58-61; col. 5, lines 15-19 and lines 41-44; Figures 1 and 2).

As per claim 22, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to analyze a relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence and determine the result based at least partially on the relationship between the first and second actual performance metrics and the actual skill level of the individual before and after the event occurrence (col. 5, lines 51-67; Table 1).

As per claim 23, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to:

        iv. define a role associated with a required skill having a required skill level and the defined performance (col. 6, line 63-col. 7, line 1); and

        v. associate the individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 5, lines 6-27; col. 7, lines 1-11; The invention as disclosed by Nashner compares the individual being

evaluated with a "norm." Furthermore, by having a reference population possessing the

"norm," the invention is associating individuals with certain skills required for certain

roles and is further quantifying such characteristics.

As per claim 24, Nashner discloses the system of claim 23 wherein the central

processing unit is further adapted to:

vi. analyze a difference between the required skill level for the role and the

possessed skill level of the individual (col. 7, lines 2-6);

vii. determine if training is necessary to raise the actual skill level to the required

skill level (col. 7, lines 6-8).

As per claim 25, Nashner discloses the system of claim 23 wherein the central

processing unit is further adapted to:

vi. further define the role by associating a desired performance metric for the

defined performance associated with the role (col. 8, lines 62-67; Table 2); and

vii. associate the individual having an actual performance metric correlating with

the desired performance metric of the role to the role (col. 7, lines 2-6; Table 2; Nashner

discloses evaluating the individual's performance capabilities relative to the

performance goals based on the reference population "norm.")

As per claim 26, Nashner discloses the system of claim 21 wherein the central

processing unit is further adapted to:

iv. compare the actual skill level of the individual before and after the event

occurrence (col. 7, lines 9-10); and

v. correlate any difference between the actual skill level of the individual before

and after the event occurrence with the ability of the individual to carry out the defined

performance (col. 7, lines 11 -12; Table 2).

As per claim 27, Nashner discloses the system of claim 21 wherein the central

processing unit is further adapted to:

iv. compare the actual skill level of the individual before and after the event

occurrence with the first and second actual performance metrics (col. 7, lines 2-11); and

v. determine a result of changes in the actual skill level of the individual before

and after the event occurrence on the ability of the individual to carry out the defined

performance (col. 7, line 27-col. 8, line 11).

As per claim 28, Nashner discloses the system of claim 21 wherein the event

occurrence is a training event bearing on the actual skill level of the individual and the

central processing unit is further adapted to:

iv. quantify a first actual performance metric of a second individual carrying out

the defined performance before the training event (col. 6, line 63-col. 7, line 1; col. 8,

lines 62-67; The invention as disclosed by Nashner compares the individual being

evaluated with a reference population "norm." In doing so, the invention is associating a

group of individuals with certain skills required for certain roles and is further quantifying

such characteristics.);

v. quantify a second actual performance metric of the second individual carrying

out the defined performance after the training event, wherein the second individual is

not subjected to the training event (col. 6, line 63-col. 7, line 1; col. 8, lines 62-67; The

invention as disclosed by Nashner compares the individual being evaluated with a reference population "norm." In doing so, the invention is associating a group of individuals with certain skills required for certain roles and is further quantifying such characteristics. Furthermore, the group of individuals are not subjected to the training.); and

vi. compare the first and second actual performance metrics of the second individual with the first and second actual performance metrics of the individual to determine effectiveness of the training event on the actual skill level (col. 7, lines 2-11).

As per claim 29, Nashner discloses the system of claim 21 wherein the central processing unit is further adapted to:

iv. identify an increase between the first and second actual performance metrics of the individual and the second individual (col. 7, lines 42-48; Table 2);

and

v. indicate an influence other than the training event causing the increase between the first and second actual performance metrics of the individual and the second individual (col. 6, lines 63-67; Tables 1 and 2).

As per claim 30, Nashner discloses a system comprising:

a) means for defining a role associated with a required skill having a required skill level and requiring a defined performance for a task (col. 6, line 63-col. 7, line 1; col. 8, lines 27-28; Figures 1 and 2);

b) means for associating an individual having a possessed skill correlating with the required skill of the role and an actual skill level quantifying the possessed skill (col. 8, lines 22-27; Figures 1 and 2);

c) means for quantifying a first actual performance metric for the defined performance of the individual carrying out the task before training bearing on the actual skill level for a particular skill of the individual, wherein the skill of the individual may or may not bear on the defined performance for the individual carrying out the task (col. 7, lines 2-6; Figures 1 and 2);

d) means for quantifying a second actual performance metric for the defined performance of the individual carrying out the task after the training (col. 7, lines 9-11; col. 8, lines 22-32; Figures 1 and 2);

e) means for analyzing a relationship between the first and second actual performance metrics before and after the training (col. 7, lines 11-12; col. 8, lines 56-59; Figures 1 and 2); and

f) means for determining a result of the training on the actual performance metric associated with the individual carrying out the task (col. 8, lines 53-64; Figures 1 and 2).

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Silverman et al. (U.S. 4,571,682) discloses a system and method for skill enhancement and behavior.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 703-605-4251. The examiner can normally be reached Monday – Thursday from 8:30am to 5:30pm and every other Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

703-305-7687   [Official Communications; including After Final

                         communications labeled "Box AF"]

703-746-7202   [For status inquiries, draft communication, labeled

                         "Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA 7th floor receptionist.

cmc
April 12, 2004

Primary Examiner
Art Unit 3623